IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.15 OF 2006

Kalyan Dombivli Municipal Corporation : Applicant

V/s.

Shri Madhukar Baburao Joshi & Ors. : Respondents

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Mr.A.S.Rao for the applicant.

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CORAM : A.M. KHANWILKAR, J.

DATE : MARCH 6, 2007.

P.C.

Heard the counsel for the applicant.

2. The counsel for the applicant fairly accepts that after institution of the suit, the competent authority after following the due procedure, passed an order in respect of the disputed structure holding it to be unauthorised. It is not disputed that thereafter the plaintiffs moved an application before the trial Court for amendment of the suit to bring on record the subsequent developments as also to challenge the order passed by the competent authority. That amendment has been allowed. The applicant questioned the correctness of the said order of the lower Court permitting amendment of the plaint

which came to be rejected by the trial Court. Against that order, the applicant carried the matter by way of a Writ Petition before this Court which has been rejected. In the circumstances, the form of the suit has now undergone change and the subsequent developments have been permitted to be brought on record. The plaintiffs have also been permitted to amend the prayer clause and seek appropriate relief. Thus understood, at this stage, it is too late to hold that the plaint as presented will have to be rejected for want of a cause of action which was the limited prayer made in the application before the lower Court which passed the order of rejection of the plaint under Order VII Rule 11 of the C.P.C. No interference is warranted in exercise of revisional jurisdiction.

3. Dismissed.

A.M. KHANWILKAR, J.